



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

EXECUTIVE ORDER NO. 91

December 27, 2021

**TRANSFER OF ADJUDICATIONS RELATED TO IMPARTIAL HEARINGS UNDER
THE EDUCATION LAW TO THE OFFICE OF ADMINISTRATIVE TRIALS AND
HEARINGS**

WHEREAS, the Charter revisions approved by the voters and set forth in sections 1048 and 1049 of the Charter authorize the Mayor, by executive order, to consolidate administrative tribunals and caseloads by transferring tribunals or parts thereof, or categories of adjudications to the Office of Administrative Trials and Hearings (“OATH”); and

WHEREAS, the prior consolidation and transfer of administrative tribunals into OATH has allowed the City of New York to continue in the impartial administration of justice and the conduct of independent, professional, efficient, and technologically advanced adjudicatory hearings; and

WHEREAS, under 20 U.S.C. § 1415(b)(6) and (k)(3), and NY Education Law § 4404(1), an impartial due process complaint may be filed by a parent or guardian of a student with a disability or by the public agency responsible for offering to provide education to such a student on any matter relating to identification, evaluation, or educational placement of such a student, or the provision of a free appropriate public education to such a student; and

WHEREAS, such claims are currently adjudicated by independent Impartial Hearing Officers selected pursuant to regulations of the Commissioner of the State Education Department (SED); and

WHEREAS, the New York City Department of Education (“DOE”) operates the New York City Impartial Hearing Office, which performs various functions to administer the system for conducting the special education impartial hearing process in the City School District for the City of New York, including recording, tracking, and processing case assignments within the Impartial Hearing System and collecting data required by the SED; and

WHEREAS, OATH has the capacity and ability to adjudicate a wide variety of administrative matters, including matters currently adjudicated by independent Impartial Hearing

Officers pursuant to 20 U.S.C. § 1415, Education Law § 4404, and the Regulations of the Commissioner of the SED; and

WHEREAS, OATH, DOE and SED have entered a Memorandum of Agreement, dated December 1, 2021 ("the MOA"), in which they agreed that the transfer of the handling of the impartial hearing system to OATH is appropriate and will facilitate the effective management of current and future filings;

NOW, THEREFORE, by virtue of the power vested in me as Mayor of the City of New York, it is hereby ordered:

Section 1. Transfer of Categories of Adjudications Related to Impartial Hearings under the Education Law.

- a. OATH shall, to the extent consistent with applicable law and regulations, and consistent with and subject to the terms of the MOA, have concurrent jurisdiction over categories of adjudications arising under the federal Individuals with Disabilities Education Act and the Regulations of the Commissioner of the New York State Department of Education, parts 200 and 201 (codified at 8 NYCRR parts 200 and 201), which are currently conducted by adjudicators pursuant to a program administered by the New York City Impartial Hearing Office. These adjudications will be conducted in accordance with applicable law by both OATH and adjudicators pursuant to a program administered by the New York City Impartial Hearing Office until such time as a full transfer is effectuated.
- b. OATH shall coordinate with DOE and SED regarding agency rulemaking relevant to such transfer and the terms of the MOA.

§ 2. Agency Cooperation. Affected agencies shall take all steps necessary, consistent with applicable law, to implement Section 1 of this Order.

§3. Effective Date. This Order shall take effect immediately.



Bill de Blasio,
MAYOR